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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,595	12/05/2001	Larry Morrow	107793-00001	3405
7590	03/04/2005		EXAMINER	
Robert C. Klinger Jackson Walker L.L.P. 2435 North Central Expressway, Suite 600 Richardson, TX 75080			LANEAU, RONALD	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/006,595	MORROW, LARRRY
	<b>Examiner</b>	<b>Art Unit</b>
	Ronald Laneau	3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 December 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

***Response to Amendment***

1. The amendment filed on 12/27/04 has been entered. Claims 1-20 are still pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-9 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by anticipated by Bondy (US 2003/0046147 A1).

Bondy teaches a business system including the steps of: an electronic core business having a customizable purchasing platform (electronic store hyperlinked or electronic retailing system) (page 2, [0021], lines 3-4); an affiliate organization provider remote from the core business enabled to provide a good or a service for purchase (page 2, [0023], lines 1-6); and wherein the core business is enabled to allow a member of a first affinity partner to electronically make purchases directly from the affiliate organization provider via the core business (page 4, [0038], line 6; page 4, [0038], lines 6-10). Furthermore, Bondy teaches a system wherein the affiliate organization is enabled to provide a royalty (commission generating module 14e) back to the core business as a function of the purchases made by the members with the affiliate organization provider (page 4, [0037], lines 1-11), a business system further comprising a second Affinity partner that is electronically associated with and is subset of the first affinity (fig. 1),

wherein the customizable purchasing platform is configured such that the member of the second affinity partner can access a web site associated with the customizable platform (fig. 1, 12). The business system taught by Bondy is inherently capable of having the first Affinity partner and its member engaged prior to the first Affinity partner engaging the affiliate organization provider (see fig. 1). Bondy further discloses a business system wherein the customizable purchasing platform electronically links the first Affinity partner to a web page of the affiliate organization provider by: storing a web page template; customizing the template to create a first Affinity partner or a second Affinity partner web page; and displaying the first Affinity partner or the second Affinity partner web page to the member when the member accesses the purchasing platform (page 2, [0023], lines 12-22, [0026], lines 1-9, fig. 2), a business system wherein the member accesses the affiliate organization provider web page via a click-through from a web page associated with the first and second Affinity Partner (page 2, [0026], lines 9-13), a business system wherein the core business is enabled such that no funds transferred from the member to the organization provider are handled by the core business (page 1, [0007], lines 11-13).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bondy (US 2003/0046147 A1) in view of Dicks et al (US 2002/0007334 A1).

As per claims 10, 11 and 19, Bondy does not teach a system wherein the first and secondary affinity partners receive a stock option in the core business but Dicks discloses a stock option in a business auction.

It would have been obvious to one of ordinary skill in the art to utilize the stock option as taught by Dicks into the system of Bondy because it would allow the Affinity partners to have a portion of the profits made therefore sharing the revenue.

As per claims 12-15 and 20, Bondy does not teach distributing the profits among the partners as a function of a volume of purchases made by the second Affinity partner members via the core business but Dicks et al teach profits or fees sharing between the broker party and non-broker party from the brokerage service in various ways.

From the teaching of Dicks et al, it would have been obvious to one of ordinary skill in the art to utilize the fees or profits sharing as taught by Dicks et al into the system of Bondy because it would provide a financially stable environment for both parties knowing that the profits will be distributed among them.

#### *Response to Arguments*

6. Applicant's arguments filed on 12/27/04 have been fully considered but they are not persuasive.

Applicant argues that Bondy being a closed purchasing network for Affinity groups. The Examiner disagrees that not only Bondy's system can also rely on the service providers to pay the agreed upon percentage by the members as Applicant puts it. The Examiner does not see anything that prevents Bondy's system from doing that. Applicant further argues that the

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affiliate organization provides a royalty to the core business. The system of Bondy does the same by paying commission to core business as a function of the purchases made by the members with the affiliate organization provider as discussed above. As far as the revenue scheme concerned, see above rejection. Applicant's arguments are deemed unpersuasive and claims 1-20 are finally rejected.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RL  
Ronald Laneau  
Examiner  
Art Unit 3627

Ronald Laneau 2/28/05  
Primary Examiner

rl